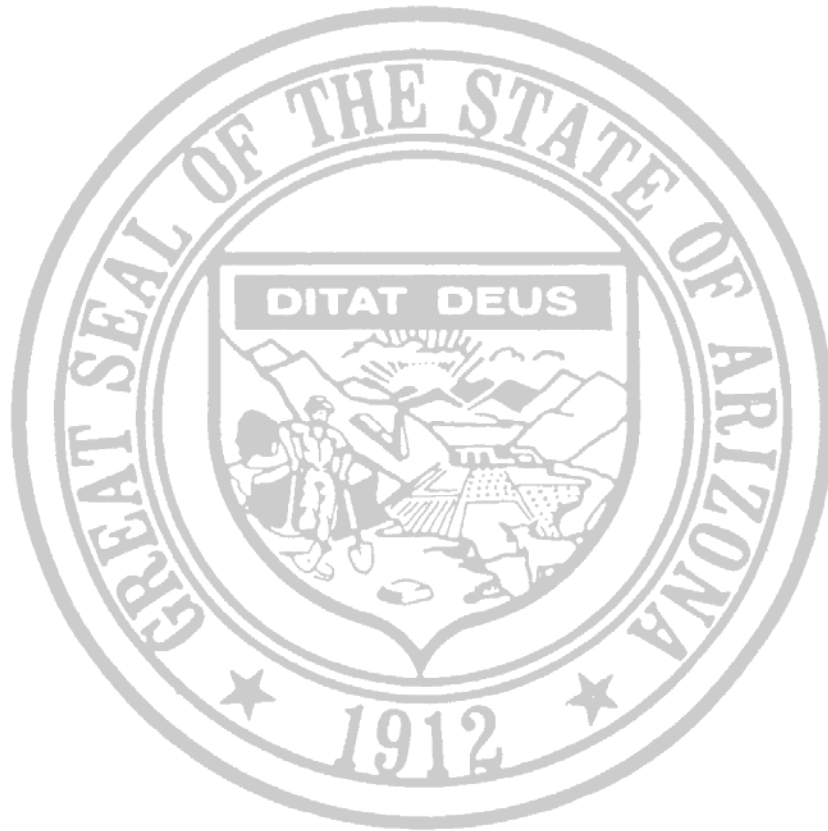


Arizona Methods of Administration Workforce Investment Act



Element Eight: Discrimination Complaint Procedures

ELEMENT EIGHT
COMPLAINT PROCESSING PROCEDURES (29 CFR Part 37.54 (d) (1) (v))

Purpose:

The State and its recipients are complying with the requirements of 29 CFR Part 37.76 through 37.79 regarding complaint processing procedures. In March, 2006, the State adopted and published procedures for processing complaints alleging discrimination by any program or activity funded authorized under WIA Title I. These procedures provide the complainant with the option to file with the recipient or directly with the Civil Rights Center (CRC), United States Department of Labor (USDOL). Local Workforce Investment Areas (LWIAs) are required to include complaint and grievance procedures as part of their Strategic Plans, and those procedures must comply with the requirements of 29 CFR Part 37.70 through 29 CFR Part 37.80.

Narrative:

Recipients that are required to do so (see 29 CFR Part 37.77) have developed and published complaint procedures (See 29 CFR Part 37.76.).

The State has issued WIA Equal Opportunity & Discrimination Complaint Policy, which sets forth the complaint procedures for all recipients and sub-recipients, and includes the State's Discrimination Complaint form. All recipients must comply with these procedures, which meet the requirements of 29 CFR Part 37.70 through 29 CFR Part 37.80. An optional additional level of appeal from the LWIA to the State WIA EO Officer is provided for in these procedures.

At a minimum, such procedures must provide for the issuance of a written Notice of Final Action within 90 days of the date on which the complaint is filed. (See 29 CFR Part 37.76(a).)

Item #4 of the Arizona Discrimination Complaint Processing Procedures provides, "The EO Officer will provide a written Notice of Final Action to the complainant within 90 days of the date on which the complaint was filed," in accordance with 29 CFR Part 37.76(a).

Complaint Procedures must contain the elements listed in 29 CFR Part 37.76(b), which include:

- **Initial, written notice to the complainant that contains an acknowledgment that the recipient has received the complaint, and a notice that the complainant has the right to be represented in the complaint process (see 29 CFR Part 37.76(b)(1);**

Item #1 of the Arizona Discrimination Complaint Processing Procedures states, "The EO Officer will provide a written acknowledgment of receipt of the complaint to the complainant within 5 days with notice that the complainant has the right to be represented in the complaint process," in accordance with 29 CFR Part 37.76(b)(1).

- **A written statement provided to the complainant, that contains a list of the issues raised in the complaint and, for each issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection (see 29 CFR Part 37.76(b)(2));**

Item #2 of the Arizona Discrimination Complaint Processing Procedures, along with subparts iii) and iv) say, “Upon receipt of a complaint or information alleging discrimination, the EO Officer will... provide written notice to all parties of the specific issues raised in the complaint; (and) provide a statement for each issue, either accepting the issue for investigation or rejecting the issue, and the reasons for each rejection,” as required by 29 CFR Part 37.76(b) (2).

- **A period for fact-finding or investigation of the circumstances underlying the complaint (see 29 CFR Part 37.76(b)(3));**

The Arizona Discrimination Complaint Processing Procedures, 2. ii) states, “Upon receipt of a complaint or information alleging discrimination, the EO Officer will... Initiate an investigation or fact-finding of the circumstances underlying the complaint that shall last at least 14 calendar days.” This meets the requirements of 29 CFR Part 37.76(b)(3).

- **A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR) (29 CFR Part 37.76(b) (4) and (c)).**

Item #3 of the Arizona Discrimination Complaint Processing Procedures contains this language, “The EO Officer will contact the complainant in writing no later than 14 calendar days of receipt of the complaint to determine the complainant’s willingness to mediate using the alternative dispute resolution (ADR) procedures.” The details of Arizona ADR procedures are delineated in item 3, a), b) and c) and were designed to meet the guidelines described in 29 CFR Part 37.71 through 29 CFR Part 37.74.

- **A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed, that contains, for each issue raised in the complaint either a statement of the recipient’s decision on the issue and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue.**

The Arizona Discrimination Complaint Processing Procedures, Item #4 i) states, “The EO Officer will provide a written Notice of Final Action to the complainant within 90 days of the date on which the complaint was filed that contains the following information: for each issue raised in the complaint, a statement of either the decision on the issue and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue...” This language mirrors the requirements of 29 CFR Part 37.76(a).

- **The written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed, must contain notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued if he or she is dissatisfied with the recipient's final action on the complaint. (See 29 CFR Part 37.76(b) (5)).**

The Arizona Discrimination Complaint Processing Procedures addresses the Notice of Final Action with this, "If, during the 90 day period, the EO Officer issues its Notice of Final Action, but the complainant is dissatisfied with the decision on the complaint, the complainant or his/her representative may file a complaint with the CRC Director within 30 days after the date on which the complainant receives the Notice of Final Action." This language was taken directly from 29 CFR Part 37.76(b) (5)) to insure compliance on this issue.

- **Describe the procedures to be followed if the complaint is filed more than 180 days after the date of the alleged violation. (See 29 CFR Part 37.78.)**

The Arizona Discrimination Complaint Processing Procedures provides for a situation when a complaint is filed more than 180 days after the date of the alleged violation. "A Notice of Lack of Jurisdiction will be provided in writing immediately upon the EO Officer discovering this lack of jurisdiction. This written notice shall also inform the complainant that he/she has the right to file a complaint with CRC within 30 days from the date of receiving the notice." This procedure was designed to meet the requirements of 29 CFR Part 37.78.

- **Provide that, if the complainant is dissatisfied with the outcome of the investigation, or if there is no final resolution of the complaint within 90 days of the date filed, the complainant is notified that he or she may file his or her complaint with the Civil rights Center (CRC).**

The Arizona Discrimination Complaint Processing Procedures states, "If, during the 90 day period, the EO Officer issues its Notice of Final Action, but the complainant is dissatisfied with the decision on the complaint, the complainant or his/her representative may file a complaint with the CRC Director within 30 days after the date on which the complainant receives the Notice of Final Action." The contact information for the Civil Rights Center is included at the bottom of Page 1 of the Arizona Discrimination Complaint Processing Procedures.